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03-09-01

A/RE

CERTIFICATE OF EXPRESS MAIL

NUMBER EL 392859825US
DATE OF DEPOSIT 3/8/01

I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Washington, D.C. 20231.

Maria L. Alvar
Signature

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reissue of:
U.S. Patent No. 5,464,551

Atty. Dkt. No.: 12598.0131.CNUS00

Issued: November 7, 1995

Prior Application Examiner:
C. Skane

Filed: Herewith

Classification Designation:

For: STABILIZED PHOSPHATE ESTER-
BASED FUNCTIONAL FLUID COMPOSITIONS

BOX PATENT APPLICATION
Commissioner for Patents
Washington, D.C. 20231

Prior Group Art Unit: 1751

PETITION TO NOT MERGE REISSUE PROCEEDINGS

Applicant hereby petitions that the currently filed reissue application not be merged with Application Serial No. 08/966,425 for which the issue fee has already been paid. The undersigned hereby authorizes the Assistant Commissioner to deduct any fees required for the hearing of this petition from Howrey Simon Arnold & White Deposit Account No. 01-2508/12598.0131.CNUS00.

The following facts are relevant to this petition:

- (1) U.S. Patent No. 5,464,551 issued November 7, 1995.

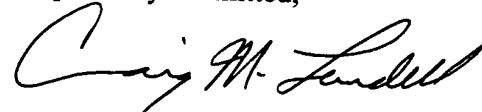
- (2) On July 2, 1997, a request for reexamination of the '551 patent was filed by the patent owner.
- (3) On September 3, 1997, reexamination was ordered.
- (4) On November 7, 1997, a reissue application was filed by the patent owner. In the reissue, the patent owner, inter alia, added new claims 90-104.
- (5) On April 23, 1998, the Patent Office issued a decision merging the reexamination and reissue proceedings.
- (6) In an Office Action mailed May 20, 1999, the Examiner allowed the remaining claims from the original patent, and all but one of the new claims added in connection with the filing of the request for reexamination. However, all of the claims added in the reissue application (90-104) were rejected. The new reissue claims were rejected under 35 U.S.C. § 251 as being an improper recapture of claimed subject matter deliberately cancelled in the application for the patent upon which the reissue was based.
- (7) In subsequent responses, all of the rejected claims were cancelled. A notice of allowance was mailed on June 15, 2000 and the issue fee was paid on June 29, 2000.
- (8) The present continuation reissue application is being filed to pursue claims 90-104 which were added in the parent reissue application but were subsequently cancelled after receiving a final rejection.

REMARKS

After receiving an office action indicating that a majority of original claims as well as all of the claims added in connection with the request for reexamination had been allowed, Applicant decided to cancel the claims which had been added in connection with the reissue application which were subject to a final rejection so that the reexamination certificate could promptly proceed to issue. Applicant did not want to delay issuance of the reexamination certificate pending an appeal of the rejection of the new claims added in the reissue application. The current continuation application contains the same claims that were added in the original reissue application (plus claim 1 which will be cancelled in due course) so that Applicant can further pursue those claims before the Examiner and by appeal if necessary.

Since the claims being pursued in this continuation reissue application can reasonably be separated from the allowed claims in the merged reexamination reissue application, Applicant respectfully requests that the merged application be allowed to issue and that the continuation application be allowed to proceed independently without either a merger or a stay.

Respectfully submitted,



Craig M. Lundell
Reg. No. Reg. No. 30,284
Attorney for Applicant

HOWREY SIMON ARNOLD & WHITE,
LLP
750 Bering Drive
Houston, Texas 77057-2198

Date: March 8, 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reexamination of:)
U.S. Patent No. 5,464,551 :
Issued: November 7, 1995 :
Inventor: GERBRAND DEETMAN :
Assignee: Monsanto Company :
Application No.: 99,267 :
Filed: July 28, 1993 :
For: STABILIZED PHOSPHATE
ESTER-BASED FUNCTIONAL
FLUID COMPOSITIONS :
:

Assistant Commissioner for Patents
Washington, D.C. 20231
Box: Reexamination

Sir:

Declaration Of Dr. Terry C. Wolfe
Under 37 C.F.R. §1.132

I, Terry C. Wolfe, hereby declare as follows:

1. I am presently an employee of the Monsanto Company, the assignee of the U.S. Patent No. 5,464,551 ("the '551 patent"). I received a B.S. in Chemistry from Texas Christian University in 1973 and a Ph.D. in Chemistry from Florida State University in 1977. I have been employed with Monsanto since 1977, in the fields of analytical chemistry from 1977 to 1993 and functional fluids, including hydraulic fluids, from 1993 to the present. My experience with hydraulic fluids includes several years of research and development of phosphate ester-based functional fluid.

compositions including leading the development of Monsanto's Skydrol 5 line of fire-resistant hydraulic fluids.

2. I am familiar with the '551 patent and understand that Monsanto is submitting this Declaration as part of a Request for Reexamination of the patent. Based on my knowledge of the art in this field, my reading of the '551 patent, and tests that were conducted to compare the fluid life of the claimed fluid compositions, it is my opinion that the claimed fluids have unexpected advantages over prior art functional fluid compositions. As is discussed more fully below, the claimed invention comprises a unique combination of base stock and additives that is not taught or suggested in the prior art. This combination provides a functional fluid composition having unexpectedly improved thermal stability characteristics.

3. The functional fluid composition disclosed and claimed in the '551 patent is a substantial improvement over the phosphate ester-based functional fluid compositions known in the art. The claimed fluid compositions demonstrate improved thermal stability over compositions of the prior art, in particular at temperatures exceeding 300°F. This Declaration provides the results of tests conducted to compare the properties of prior art "Type IV" fluids with Monsanto's new "Type V" fluids at 275°F and compares these

results to the data disclosed in the Examples of the '551 patent.

4. The term "Type IV fluids" as used in this Declaration refer to fluids known in the art as having erosion-arresting and fire-resistant characteristics.^{1/} The term "Type V fluids" refers to the fluids that also have erosion-arresting and fire-resistant characteristics yet have lower density and improved thermal stability characteristics. The fluids claimed in the '551 patent are referred to herein as Type V fluids. The lower density of Type V fluids is due to the increased amount of alkyl-substituted phosphate ester base stocks as compared to phenyl-substituted phosphate esters. The improved thermal stability is explained more fully below. Although the designation of "Type V" has not been adopted by the entire aviation industry, one major aircraft manufacturer, McDonnell-Douglas, has adopted new specifications for aviation hydraulic fluid compositions that were based on the performance characteristics of Monsanto's Type V fluids.

5. Tests were conducted on Type IV and Type V formulations as follows:

Table 1

^{1/}Okazaki et al., attached hereto as Exhibit 1 and discussed more fully below, provides a brief history of phosphate ester-based functional fluids. In particular, note Figure 2 on page 19.4-5.

<u>Compound</u>	<u>Type IV (%)</u>	<u>Type V (%)</u>
Trialkyl phos.	59.9	89.0
Dialkylaryl phos.	32.8	-
Triaryl phos. (S-154)	-	3.0
Acid Scavenger (MCS-1562)	5.8	5.8
Copper Inhibitor (FH-132)	.5	.5
Iron Inhibitor (VANLUBE RIG)	-	.025
Phenolic Antioxidant #1 (IONOL)	1.0	.25
Phenolic Antioxidant #2 (E702)	-	.45
Phenolic Antioxidant #3 (E330)	-	.45
Amine Antioxidant (DODPA)	-	.45
Anti-erosion Additive (FC-98)	.025	.025

The base stocks were comprised of trialkyl and dialkylaryl phosphate esters (Type IV) or trialkyl and triaryl phosphate esters (Type V). The trialkyl phosphate esters used were C₄ (tri-n-butyl or tri-iso-butyl) and C₅ (tri-n-amyl or tri-iso-amyl). The dialkylaryl phosphate esters used were mixtures comprising approximately 70% dialkylaryl phosphates, 12% trialkyl phosphates and 18% alkyldiaryl phosphates. The aryl portion of the compounds was phenyl and the alkyl portion was either C₄ (n-butyl or iso-butyl) or C₅ (n-amyl or iso-amyl). The remaining ingredients represent the "additive package" of the fluid composition. The designations for the ingredients referred to in parentheses are defined in Example 12 of the '551 patent at Columns 32-34. Thus, the test fluids represent n-Type IV, n-Type V, iso-Type IV, and iso-Type V compositions.

6. The compositions were subjected to thermal stability tests analogous to those demonstrated in the Examples of the '551 patent to analyze the "fluid life" of the composition. The various blends were placed in stainless steel tubes with metal coupons (steel, cadmium steel, copper, aluminum,

magnesium) and heated in an oven to 275°F. The tubes were removed from the oven and purged with air every 100 hours. Each composition was monitored for depletion in the amount of acid scavenger remaining in the tubes. The acid scavenger will react with any acids formed as a result of the hydrolysis of the phosphate esters in the base stock. The "fluid life" is defined as the time required to deplete 90% of the acid scavenger. The fluids were tested to determine if any significant improvement is seen in the fluid life of a functional fluid composition based on the improved base stock (substantially iso- vs. n-alkyl phosphate esters) and/or the improved additive package of the claimed invention. Fluid life is considered by those of ordinary skill in the art of functional fluid compositions to be an important property of a fluid composition. Results are presented in Table 2.

Table 2

<u>Compound</u>	<u>Fluid Life (hours)</u>
Type IV n-butyl	2012
Type V n-butyl	2366
Type IV iso-butyl	2131
Type V iso-butyl	2267
Type IV n-amyl	2211
Type V n-amyl	2265
Type IV iso-amyl	2128
Type V iso-amyl	2217
Type IV n-butyl	2091
Type V n-butyl	2356
Type IV iso-butyl	2287
Type V iso-butyl	2502

The averages of the values the data in Table 2 are as follows:

n-Type IV	2105 hours	n-Type V	2329 hours
iso-Type IV	2182 hours	iso-Type V	2328 hours

8. The data in Table 2 shows that at 275°F, n-Type IV fluids have a significantly shorter fluid life than n-Type V fluids and iso-Type IV fluids have a significantly shorter fluid life than iso-Type V. However, at 275°F, there is no statistically significant difference in fluid life between n-Type IV and iso-Type IV or between n-Type V and iso-Type V.

9. The Examples in the '551 patent demonstrate the thermal stability of the claimed fluid compositions at temperatures exceeding 300°F. Example 12 (Table 11) and Example 13 (Tables 11 and 12) compares several "Type IV" and "Type V" hydraulic fluids based on their thermal stability at 325°F. Example 5 (with Figures 6 to 9) and Example 7 (with Figure 12) demonstrate the improved thermal and oxidative stability of functional fluids due to the presence of the additive package of the claimed invention.

10. In Example 12, sample 3 is a type V fluid with a triisobutylphosphate/diisobutylphenyl phosphate ("TIBP/DIBPP") base stock. Sample 1 is a type V fluid with a tributylphosphate/dibutylphenylphosphate ("TBP/DBPP") base stock and essentially the same additive package as sample 3. Sample 2 is a type V fluid with a TBP/DBPP base stock and the same additive package as sample 3. Sample LD-4 is a type IV

prior art fluid with a TBP/DBPP basestock, which has a higher density than Sample 2 due to a greater amount of DBPP in the basestock and different additive package.

11. Comparing the results for sample 3 (1264 hr.) to the results for sample 1 (677 hr.) and sample 2 (420 hr.) demonstrates that Type V fluids that contain tri-isobutylphosphate basestocks have a significantly improved thermal stability at 325°F. Comparing the results for sample 3 to the results for sample LD-4 (300 hr.) demonstrates that both tri-isobutylphosphate basestock and the additive package of the invention have a cumulative effect in improving the thermal stability of Type V fluids at 325°F.

12. In Example 13, sample 11 is a Type V fluid with a tri-isobutylphosphate/triphenylphosphate ("TIBP/TPP") basestock and sample 5 is a type V fluid with a tri-isobutylphosphate/di-isobutylphosphate ("TIBP/DIBPP") basestock. Sample 2 and LD-4 are the same Type V and Type IV fluids, respectively, as discussed above for Example 12. Samples 11, 5 and 2 have the same additive package which is the additive package of the claimed invention and LD-4 has a prior art additive package.

13. Comparing the results for sample 11 (greater than 1000 hours) and sample 5 (1000 hours) to the results for sample 2 (450 hours) also demonstrates that Type V fluids having the

tri-isobutylphosphate basestock of the claimed invention have a significantly improved thermal stability at 325°F over fluids that do not contain this basestock. Further, the cumulative effect of the tri-isobutylphosphate basestock and the additive package of the invention can be seen in a comparison of the results for samples 11 and 5 with the results for sample LD-4 (300 hours)

14. Example 5 shows the thermal stability of Type V fluids at 300°F with 0.1% to 0.5% moisture and at 375°F with no moisture. Figure 8, when compared with Figures 6 and 7, shows that a Type V fluid (LD-5) with the additive package of the claimed invention has a significantly improved thermal stability at 300°F over Type IV fluids (LD-4 and H4A) which have a prior art additive package. Figure 9 shows the significant beneficial effect of the additive package of the claimed invention in Type V fluids at 375°F when compared to Type IV fluids with the prior art additive package.

15. Example 7 shows the oxidation stability at 350°F of fluids with and without the additive package of the claimed invention. Figure 12 shows that Type V fluids containing the additive package of the claimed invention are significantly more stable than two Type IV prior art fluids with similar basestocks but containing a prior art additive package.

16. The following references, attached to and made part of this Declaration as Exhibits 1-4, demonstrate the significance of the results of the thermal stability tests conducted at temperatures below 300°F and above 300°F:

- a) Okazaki, M.E. et al., "Hydrolysis of Phosphate-Based Aviation Hydraulic Fluids" in *TECHNISCHE AKADEMIE ESSLINGEN* 8th International "Tribology 2000" Colloquium Jan. 14-16, 1992 Proceedings, pages 19.4-1 to 19.4-10 (Exh. 1);
- b) Wilson, D.R., "Exploratory Development on Advanced Fluids and Lubricants in Extreme Environment by Mechanical Characterization" in Technical Report AFML-TR-70-32, Part III, (Air Force Materials Laboratory, Wright-Patterson Air Force Base, Ohio; January 1972) (Exh. 2);
- c) Brooks, S. and Schwenker, H., "Chemical Physical and Mechanical Properties of Low Density Phosphate Ester Hydraulic Fluids" in Technical Report AFML-TR-73-78, (Air Force Materials Laboratory, Wright-Patterson Air Force Base, Ohio; April 1973) (Exh. 3); and
- d) Kirk-Othmer Encyclopedia of Chemical Technology (3d ed.) Vol. 12, pages 712-733 (Exh. 4).

17. Okazaki et al. discuss the effect of temperature on hydrolysis of phosphate ester based fluids and demonstrate that hydrolysis occurs much faster at 300°F than at 260°F (see, Figure 9). The Air Force Technical Reports show the results of 50 hour hydraulic pump circuit thermal stability tests on phosphate ester based fluids at 275°F, 300°F, and

350°F. The results show that there were no signs of fluid degradation at 275°F. However, changes occurred during the tests at higher temperatures whereby incipient fluid degradation occurred at 300°F and gross fluid degradation occurred early on at 350°F. (See, Exh. 2 at pages 32-35 and Exh. 3 at pages 6, 27 and 109). The Kirk-Othmer Encyclopedia passage discussing hydraulic fluids provides a figure on page 716 that shows the normal acceptable range for continuous service of phosphate esters and presents an upper limit of 300°F.

18. These references highlight 300°F as a point where a comparison can be made of the properties of phosphate ester based hydraulic fluids. For the acid scavenger depletion tests discussed here, the rate of depletion of acid scavenger at temperatures below 300°F would be expected to be lower because the acid scavenger would mainly be reacting with hydrolysis products. At temperatures above 300°F, the rate of acid scavenger depletion would be expected to be much higher due to reaction of the acid scavenger with hydrolysis products and other degradation products.

19. Thus, because of the expected lower rate of depletion of the acid scavenger at 275°F, one would not expect to see a significant difference in the fluid life among the tri-alkylphosphate ester-based fluid compositions having various base stocks. As shown above in paragraphs 5-8, when a prior

art additive package is used in all test compositions, no significant difference in fluid life occurs when the phosphate ester base stocks were varied from isoalkyl to normal alkyl. However, when all the test compositions contain the same trialkyl phosphate ester, a significant increase in the fluid life is demonstrated at 275°F when the claimed additive package is used as compared to when a prior art additive package is used. Based on the teaching of the art discussed above, this result is unexpected.

20. On the other hand, when conducting experiments under the conditions of the Examples in the '551 patent, i.e., temperatures exceeding 300°F, one would expect to see a significant decrease in the fluid life due to the reaction of acid scavenger with hydrolysis products and other degradation products. As discussed above, the Examples in the '551 patent demonstrate that both the iso-alkyl phosphate ester base stock and the additive package contribute to provide the functional fluids of the claimed invention, which possess unexpectedly improved thermal stability over compositions of the prior art when tested at temperatures above 300°F.

All statements made herein of my own knowledge are true and all statements made herein on information and belief are believed to be true. This Declaration is made with the understanding that any willful false statements and the like so made are punishable by fine or imprisonment, or both (18

USC 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Terry C Wolfe
Terry C. Wolfe, Ph.D.
FS04\A566425\jmm

24 JUNE 97
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue of:)
U.S. Patent No. 5,464,551 :
)
Issued: November 7, 1995 : Examiner: Not Yet Assigned
)
Inventor: GERBRAND DEETMAN : Previous Examiner: Ogden
)
Assignee: Monsanto Company : Art Unit: Not Yet Assigned
)
Reissue Control No.: Unknown : Previous Art Unit: 1105
)
Filed: Herewith :
)
For: STABILIZED PHOSPHATE :
ESTER-BASED FUNCTIONAL :
FLUID COMPOSITIONS : November 4, 1997

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

ASSIGNEES ASSENT TO FILING REISSUE PURSUANT
TO 37 C.F.R. 1.172 AND OFFER TO SURRENDER
ORIGINAL LETTERS PATENT PURSUANT TO 37 C.F.R. 1.178

Monsanto Company ("Monsanto"), 800 North
Lindbergh Blvd., St. Louis, MO 63167, states that:

1. Monsanto is the assignee and owner of all right, title, and interest in U.S. Patent No. 5,464,551 ("the '551 patent") for Stabilized Phosphate Ester-Based Functional Fluid Compositions issued November 7, 1995 to Gerbrand Deetman.

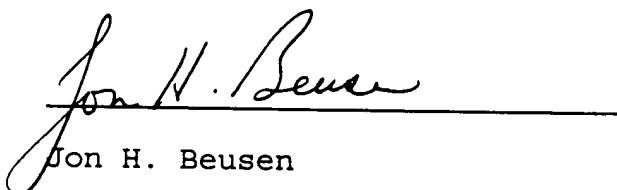
2. Monsanto believes that the above-named inventor is the original, first and sole inventor of the invention described and claimed in the '551 patent and in the accompanying reissue application for the '551 patent.

Monsanto hereby assents to the filing of this reissue application.

3. Monsanto offers to surrender the original Letters Patent upon allowance of the reissue application.

The foregoing statement is signed by Jon H. Beusen on behalf of Monsanto Company pursuant to the authority delegated to Jon H. Beusen, effective April 1, 1996 by the Executive Committee of the Board of Directors as evidenced by the attached Certificate of Zoe Ann Franek, Assistant Secretary of Monsanto Company, dated April 15, 1996.

November 4, 1997



Jon H. Beusen

Jon H. Beusen
Intellectual Property Counsel
Authorized to sign this document for
Monsanto Company by resolution dated
April 15, 1996 of the Board of Directors

CERTIFICATE

I, Zce Ann Franek, Assistant Secretary of Monsanto Company, a Delaware corporation (the "Company"), hereby certify that the following is a true and correct copy of excerpts of resolutions adopted by Unanimous Written Consent of the Executive Committee of the Board of Directors of the Company effective April 1, 1996, and that, since said date, said resolutions have been and are now in full force and effect:

SIGNATURE AUTHORITY--PATENT AND TRADEMARK APPLICATIONS

RESOLVED, that whereas Jon H. Beusen, Mark F. Wachter, Roger A. Williams and Jeffrey M. Hoster are all intellectual property counsel of Monsanto Company or its subsidiaries (Monsanto Company and its subsidiary and affiliated companies hereinafter called "the Company"), any one of such individuals is hereby authorized, effective as of April 1, 1996, to approve, alter, amend, execute and deliver in any country of the world and in the name of and on behalf of the Company (without necessity for affixing a Company seal thereto) any document relating to matters of any invention, patent or design, including, but not limited to, any document in connection with any application for the grant, extension or maintenance of any patent, registration, supplemental protection certificate, or other certificate evidencing the rights of the Company to any of said matters;

FURTHER RESOLVED, that whereas Jon H. Beusen, Mark F. Wachter, and John Mark Wilke are all intellectual property counsel of Monsanto Company or its subsidiaries (Monsanto Company and its subsidiary and affiliated companies herein-after called "the Company"), any one of such individuals is hereby authorized, effective as of April 1, 1996, to approve, alter, amend, execute and deliver in any country of the world and in the name of and on behalf of the Company (without necessity for affixing a Company seal thereto) any document relating to matters of any copyright, service mark or trademark, including, but not limited to, any document in connection with any application for the grant, renewal or maintenance of any registration or other certificate evidencing the rights of the Company to any of said matters;

FURTHER RESOLVED, that with respect to the foregoing matters, the individuals named in the preceding resolutions are authorized to appoint agents and to revoke appointment of agents, and to grant and revoke powers of attorney, for the representation of the Company in any administrative or judicial proceeding, with the same effect as if such documents, appointments, grants or revocations had been duly executed under Company seal and had been signed by a duly authorized Company officer;

FURTHER RESOLVED, that the authority granted in the preceding resolutions includes authority with respect to any documents effecting an administrative or judicial determination of the rights of the Company in a pending application;

FURTHER RESOLVED, that the authority granted in the preceding resolutions includes authority to sign agreements or other documents for the purpose of formal ratification of the sale, transfer, assignment, license or other disposition of rights of the Company, provided that the disposition of said rights has been approved by an authorized individual;

FURTHER RESOLVED, that the authority granted in the preceding resolutions may be delegated to any other employee of, or to any counsel to, the Company; and

FURTHER RESOLVED, that Monsanto Company hereby ratifies and confirms all that any one of the intellectual property counsel named herein lawfully does or causes to be done on its behalf by virtue of these resolutions.

IN WITNESS WHEREOF, I have hereunto set my hand in my official capacity and affixed the corporate seal of the Company this 14th day of April, 1996.



Assistant Secretary

SEAL

775.2800

REISSUE PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue of:	:)
U.S. Patent No. 5,464,551	:)
Issued: November 7, 1995	:	Examiner: Not Yet Assigned
Inventor: GERBRAND DEETMAN	:) Previous Examiner: Ogden
Assignee: Monsanto Company	:) Art Unit: Not Yet Assigned
Reissue Control No.: Unknown	:) Previous Art Unit: 1105
Filed: Herewith	:)
For: STABILIZED PHOSPHATE	:)
ESTER-BASED FUNCTIONAL	:)
FLUID COMPOSITIONS	:	November 7, 1997

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

APPLICATION OF GERBRAND DEETMAN FOR
REISSUE OF U.S. PATENT NO. 5,464,551

Pursuant to the practice under 37 C.F.R. 1.53 and M.P.E.P. §1410, enclosed herewith for filing are the following papers constituting an application for Reissue of United States Letters Patent No. 5,464,551, issued November 7, 1995 to Deetman for STABILIZED PHOSPHATE ESTER-BASED FUNCTIONAL FLUID COMPOSITIONS:

1. Mounted soft copy of the specification and claims, including original claims 1-89 and broader reissue claims 90-104, comprising the reissue application.
2. A soft copy of the printed original patent.

Also enclosed is a check in the amount of
\$954.00 for the filing fee, computed as follows:

TOTAL \$954.00

This reissue application is filed on behalf of the inventor, Gerbrand Deetman, a citizen of the United States, having a post office address of 11 River Valley Court, St. Charles, Missouri 63033.

Pursuant to 37 C.F.R. 1.171 a certified title report is enclosed with these application papers.

Since the subject reissue application contains a specification under 37 C.F.R. 1.71 and claims under 37 C.F.R. 1.75, it is respectfully requested that the subject reissue application be assigned an official serial number and filing date in accordance with 37 C.F.R. 1.53(b).

Also submitted herewith are a Declaration and Power of Attorney of Gerbrand Deetman, a Declaration of Kenneth D. Goetz, a Declaration of Wendell W. Brooks, and Assignee's Assent To Filing Reissue Pursuant to 37 C.F.R. 1.172 and Offer To Surrender Original Letters Patent Pursuant To 37 C.F.R. 1.178.

The undersigned attorney has been authorized to file the subject application on behalf of the inventor and the assignee.

No additional fee is necessary in connection with this response. However, if any additional fee is deemed necessary, authorization is hereby given to charge such fee to Deposit Account No. 06-1205.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 758-2400. All correspondence should be directed to our below listed address.

Respectfully submitted,



Attorney for Applicants
Registration No. 35,161

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